

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dale Gerken,
Petitioner-Appellant,

v.

Webster County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-94-0085
Parcel No. 0901227004

On October 7, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Dale Gerken (Gerken) requested his appeal be considered without hearing and submitted evidence in support of his petition. The Board of Review designated Assistant County Attorney Cori Kuhn Coleman as its legal representative. The Board of Review submitted evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Gerken appeals from the Webster County Board of Review decision reassessing his property located at 1590 220th Street, Fort Dodge in Clay Township, Iowa. According to the property record card, the subject property consists of three improvements: (1) a 936 square-foot detached garage built in 1975, with a quality grade of 4, and having 36% physical depreciation; (2) an 1120 square-foot, one-story, frame shop built in 2008 with a quality grade of 5 and 5% physical depreciation; and (3) a 46 foot by 53 foot metal pole building built in 1978 which has a quality grade of 4 and 75% physical depreciation. A notation on the card states a mobile home which had been on the parcel was razed on January 1, 2011.

The improvements are situated on a 3.560 acre site. The real estate was classified as rural residential on the January 1, 2011, assessment and valued at \$72,520, representing \$30,000 in land value and \$42,520 in improvement value. This was an increase from the previous year's assessment.

Gerken protested to the Board of Review on the ground that the property assessment is not equitable compared to the assessments of like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). He indicated the land value has increased from \$15,750 in 2010 to \$30,000 in 2011. The Board of Review denied the petition.

Gerken then appealed to this Board and reasserted his claim. He claims the property's fair market value was \$57,520. Gerken reported a mobile home was removed from the property in 2010. The site had a well, but lacks living area, a toilet, and a septic system. He provided three rural properties to demonstrate inequity, as shown:

Owner	Address	Class	Map Area	Acres	Land Value
Box	2759 Garfield Ave	Rural Residential	Fulton	3.75	\$ 19,500
Wagner	2694 Hayes Ave	Rural Ag Dwelling	Elkhorn Ag	4.58	\$ 7,330
Henderson	2901 Johnson Ave	Rural Residential	Clay	0.6	\$ 14,050
Gerken	Subject	Rural Residential	Fulton	3.56	\$ 30,000

According to the property card, the first acre of the subject parcel has a unit price of \$25,000 and the remaining 2.560 acres are valued at \$5000, for a total value of \$30,000. The Wagner property is classified agricultural which is valued based on productivity and net earning capacity, unlike the subject, and therefore is not comparable for equity purposes. The Henderson property is located in the Clay Map Area which may be priced differently or have a different map factor than the subject property, and the land quality is unknown. We note the Box property has slightly more acreage (3.75 acres) than the Gerken property (3.56 acres), yet the subject property is assessed for less. The Box property has the most similarity with the Gerken property by its residential classification and location in the Fulton Map Area. However, not enough information was provided to adequately compare the assessments. From the limited record, we are unable to determine the land quality, if any adjustments

were applied, or the pricing method used that resulted in it being assessed for less than the subject property, despite it being a slightly larger site.

While the information provided may suggest some inequity in the assessments of similar properties, we are unable to adequately compare the properties given the scant evidence.

We are also unable to determine from the record why the improvement value increased rather than decreased, when a mobile home was removed from the subject property. Based on this, we recommend the assessor review the assessment of the Gerken property, to ensure equitable application of the land unit pricing method and to assure adequate adjustment was made for the removal of the mobile home.

Reviewing the record as a whole, we find the preponderance of the evidence did not establish the subject property is inequitably assessed as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Ily-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Part of the *Maxwell* test requires one to look at comparable sales. Gerken failed to look at sales to develop a sales/assessment ratio. Gerken failed to present persuasive evidence sufficient to support the claim that his land assessment was inequitable as compared with assessments of other like property in the taxing district. Although some parcels were assessed at lower values, we are unable to determine whether they were comparable to the Gerken parcel.

We therefore, affirm the Gerken property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$72,520, representing \$30,000 in land value and \$42,520 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Webster County Board of Review is affirmed.

Dated this 7 day of December 2011.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Member

Richard Stradley
Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-7</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>